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ABSTRACT

This paper discusses specific rights of gifted students and their parents under the laws of New York State. The following areas are covered: Chapter 740 of the Laws of 1982 (which states that if a district accepts State funds for gifted programs, it must provide services to gifted pupils); a provision under Chapter 53 of the Laws of 1980 which requires screening for giftedness upon entry into a New York public school; administrative options for serving the gifted (such as eighth grade acceleration and credit through examination); and the Regents' Bill of Rights for Children (which includes one statement asserting a child's right to an education appropriate for his/her individual needs). (DB)

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WHAT ARE YOUR RIGHTS AS A PARENT OF A GIFTED CHILD?

David J. Irvine

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WHAT ARE YOUR RIGHTS AS A PARENT OF A GIFTED CHILD?

Since New York does not have a mandate requiring districts to provide programs specifically designed for gifted pupils, what rights do gifted pupils and their parents have? Several rights of gifted pupils are described below. References are provided to relevant sections of law or regulation.

Chapter 740 of the Laws of 1982

Under this law, if a district accepts State funds for gifted programs, it must provide services to gifted pupils. These services shall include identification, instructional programs, planning, inservice education and program evaluation. (Article 90, Section 4452.c of Education Law.)

Approximately 97 percent of the districts provide services under this definition. However, in some cases these services are provided at only a few grade levels, in only a few areas of learning, or in other limited ways. Because there is no requirement that every student who has been identified as gifted must be served with a specially designed program, some identified gifted students may not be provided such a program.

What other provisions affecting gifted students and their parents does Chapter 740 contain?

>>> When a pupil is referred for consideration for a gifted program, the school district must inform the parent or guardian and seek approval to carry out an assessment to see if the pupil meets the district's identification criteria for the program. If the parent does not give approval, the pupil may not be tested or assessed in other ways for the program. (Article 90, Section 4452.e.)

>>> If a pupil is placed in a gifted program, the school must inform his or her parent. (Article 90, Section 4452.f.)

>>> A pupil attending a private school has a right to participate in the gifted program in the public school district in which the private school is located. The pupil must meet the school district's eligibility requirements for the gifted program. The school district must provide transportation between schools, if the distance is greater than one-fourth of a mile. If the pupil lives in another school district, the parent should apply to that school board, which will relay the request to the school board of the district in which the private school is located. The application must be made by June 1 for the next school year. (Article 73, Section 3602-c of Education Law.)

There are some limitations on this right, including the following:

>> If the gifted program in the public school enrolls pupils full time, obviously a pupil cannot participate and still be enrolled in a private school.

>> Services to private school gifted pupils must be provided in the same way and in the same setting as services provided to public school gifted pupils.

Screening under Chapter 53 of the Laws of 1980

Pupils who are entering a public school in New York State for the first time must be screened to see if they are gifted. For the majority of pupils, this is when they enter kindergarten. However, a pupil who has never been enrolled in a public school in the State and now enters a public school from a private school or from out of state must be screened, no matter what grade he or she is in. (Section 117 of the Regulations of the Commissioner of Education.)

>>> For pupils enrolling in the fall of the school year, screening must take place by December 1. For pupils enrolling later, screening must take place within 15 days of entry.

>>> The screening must include an assessment of language development.

>>> The screening must be conducted in the pupil's native language, if the language of the home is other than English.

>>> If a pupil is found to be possibly gifted, results of the screening must be reported to the school superintendent. At this time, there is no requirement that the results must be reported to the parent. However, the parent may request the results of the screening and they must then be provided.

Since this is a preliminary screening, it may indicate only that a pupil is possibly gifted. An in-depth assessment is needed to identify with more certainty a gifted pupil and determine the most appropriate program for him or her.

>>> If the pupil is referred for further consideration for a gifted program, the school must inform the parent and ask approval, as indicated under Chapter 740.

Administrative Options for Serving the Gifted

Among the many options available for serving gifted students, the Regulations of the Commissioner of Education require that school districts must make two options available:

Eighth-Grade Acceleration. Public schools must make it possible for eighth-grade students to take high school courses in Regents mathematics and in at least one of the following areas: English, social studies, second language, art, music, occupational education subjects, Regents science courses. (Section 100.4 of the Regulations of the Commissioner of Education.)

>>> The school district staff decides whether a student has demonstrated readiness to begin high school courses in the eighth grade.

>>> If the student passes the course, he or she will receive high school credit.

Credit Through Examination. If a student has acquired the knowledge outside a regular course, he or she may receive up to 6 1/2 credits toward graduation without taking the courses. (Section 100.5 of the Regulations of the Commissioner of Education.) The student has this right if:

>>> The school staff determines that he or she will benefit academically.

>>> He or she achieves a score of at least 85 percent on a State examination or an examination approved by the State.

>>> He or she meets other requirements the school has, such as lab requirements, a special project, or an oral examination.

The Regents' Bill of Rights for Children

In March, 1989, the New York State Board of Regents adopted a "Bill of Rights for Children." Although the rights are not legal rights, they do reflect the policy goals of the Regents.

Of particular interest to parents of gifted children is item number IV, which states:

> "Each child has the right to an education appropriate for his or her individual needs."

An appropriate program has been defined as one that offers a gifted pupil a trained teacher, classmates with similar characteristics, and a curriculum that is appropriately challenging and adaptable to each pupil's rate and style of learning.

In a regular classroom, pupils of high ability often spend the majority of their time working on material they already know. When they do encounter new material, they may learn it in much less time than most of their classmates. They may have few classmates with the same interests. Their teachers may have trouble providing learning experiences that stimulate them while also planning for the range of abilities among the remainder of the pupils.

What Can Parents Do?

It is important for you to know what rights you and your child have, as well as those you don't have.

If you think your school isn't doing everything it is required to do, you can refer the school officials to those sections of Education Law or Regulations of the Commissioner of Education that appear to apply.

What about those things your district is not required to do but you would like to see it doing? Here again, keep in touch with the school officials. Explain the desirability of providing services designed to meet the needs of gifted children. You and other parents can influence what is done.

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